

House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 119

HOUSE BILL 2701

AN ACT

AMENDING SECTIONS 12-284.03, 13-811, 31-281, 31-287, 41-178, 41-191.09, 41-1604.07, 41-1641, 41-2402 AND 41-2405, ARIZONA REVISED STATUTES; AMENDING LAWS 2015, CHAPTER 17, SECTION 11; RELATING TO CRIMINAL JUSTICE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-284.03, Arizona Revised Statutes, is amended to
3 read:

4 12-284.03. Distribution of fees

5 A. Excluding the monies that are kept by the court pursuant to
6 subsection B of this section, the county treasurer shall transmit, distribute
7 or deposit all monies received from the clerk of the superior court pursuant
8 to section 12-284, subsection K as follows:

9 1. ~~1.31 per cent~~ PERCENT to the state treasurer for deposit in the
10 ~~drug and gang enforcement account~~ RESOURCE CENTER FUND established by ~~section~~
11 ~~41-2402~~ AND for the purposes of section 41-2402, subsection G.

12 2. ~~8.87 per cent~~ PERCENT to the state treasurer for deposit in the
13 domestic violence shelter fund established by section 36-3002.

14 3. ~~1.93 per cent~~ PERCENT to the state treasurer for deposit in the
15 child abuse prevention fund established by section 8-550.01.

16 4. In the county law library fund established by section 12-305,
17 either:

18 (a) ~~7.62 per cent~~ PERCENT if the county treasurer is serving in a
19 county with a population of more than five hundred thousand persons ~~according~~
20 ~~to the most recent United States decennial census.~~

21 (b) ~~15.30 per cent~~ PERCENT if the county treasurer is serving in a
22 county with a population of five hundred thousand persons or less ~~according~~
23 ~~to the most recent United States decennial census.~~

24 5. ~~0.35 per cent~~ PERCENT to the state treasurer for deposit in the
25 alternative dispute resolution fund established by section 12-135.

26 6. To the elected officials' retirement plan fund established by
27 section 38-802, either of the following percentages, which shall be
28 distributed to the fund pursuant to section 38-810:

29 (a) ~~23.79 per cent~~ PERCENT if the county treasurer is serving in a
30 county with a population of more than five hundred thousand persons ~~according~~
31 ~~to the most recent United States decennial census.~~

32 (b) ~~15.30 per cent~~ PERCENT if the county treasurer is serving in a
33 county with a population of five hundred thousand persons or less ~~according~~
34 ~~to the most recent United States decennial census.~~

35 7. ~~17.07 per cent~~ PERCENT to the state treasurer for deposit in the
36 judicial collection enhancement fund established by section 12-113.

37 8. ~~0.26 per cent~~ PERCENT to the state treasurer for deposit in the
38 confidential intermediary and fiduciary fund established by section 8-135.

39 9. In the county general fund, the following percentages:

40 (a) ~~31.29 per cent~~ PERCENT if the county treasurer is serving in a
41 county with a population of more than five hundred thousand persons ~~according~~
42 ~~to the most recent United States decennial census.~~

43 (b) ~~32.10 per cent~~ PERCENT if the county treasurer is serving in a
44 county with a population of five hundred thousand persons or less ~~according~~
45 ~~to the most recent United States decennial census.~~

1 B. 7.51 ~~per cent~~ PERCENT of the monies transmitted, distributed or
2 deposited pursuant to subsection A of this section shall be kept and used by
3 the court collecting the fees in the same manner as the seven dollars of the
4 time payment fee prescribed by section 12-116, subsection B.

5 Sec. 2. Section 13-811, Arizona Revised Statutes, is amended to read:

6 13-811. Disposition of fines

7 A. Except as provided in subsections B and C of this section, all
8 fines collected in any court, except municipal courts, shall be paid to the
9 county treasurer of the county in which the court is held. All fines
10 collected in the superior court for violation of a city or town ordinance
11 shall be paid to the county treasurer.

12 B. Except as provided in subsection C of this section, all fines or
13 costs collected in any court for offenses indicted by a state grand jury or
14 for other offenses prosecuted by the attorney general shall be paid to the
15 anti-racketeering revolving fund established ~~in~~ BY section 13-2314.01.

16 C. Except as provided in section 13-821, all fines collected in any
17 court for offenses included in chapter 34 of this title and prosecuted by a
18 city prosecutor, a county attorney or the attorney general shall be paid to
19 the drug and gang enforcement ~~account of the criminal justice enhancement~~
20 fund established ~~in~~ BY section 41-2402.

21 Sec. 3. Section 31-281, Arizona Revised Statutes, is amended to read:

22 31-281. Transition program; report; definition

23 A. The department shall establish a transition program THAT PROVIDES
24 ELIGIBLE INMATES WITH TRANSITION SERVICES IN THE COMMUNITY FOR UP TO NINETY
25 DAYS. The department shall administer the transition program and contract
26 with private or nonprofit entities to provide eligible inmates with
27 transition services and shall procure transition services pursuant to title
28 41, chapter 23.

29 B. The director shall adopt rules to implement this article. The
30 rules shall include:

31 1. Eligibility criteria for receiving a contracted entity's transition
32 services. To be eligible, at a minimum, an inmate shall:

33 (a) Not have been convicted of a ~~violation of~~ SEXUAL OFFENSE PURSUANT
34 TO title 13, chapter 14 or A VIOLATION OF TITLE 13, CHAPTER 17 ~~or title 28,~~
35 ~~chapter 4.~~

36 (b) Be classified by the state department of corrections as a low
37 VIOLENCE risk to the community.

38 (c) Not have been convicted of a violent crime as defined in section
39 13-901.03 or a domestic violence offense pursuant to section 13-3601.

40 ~~(d) Have a nonviolent risk score as determined by the department.~~

41 ~~(e)~~ (d) Not have any felony detainers.

42 ~~(f)~~ (e) Agree in writing to provide specific information after the
43 inmate is released. The department shall use the information to prepare the
44 report prescribed by subsection D, paragraph 3 of this section.

1 ~~(g)~~ (f) Have made satisfactory progress BY COMPLYING WITH ALL
2 PROGRAMMING on the inmate's individualized corrections plan as determined by
3 the department.

4 ~~(h) Have maintained civil behavior while incarcerated as determined by~~
5 ~~the department.~~

6 ~~(i) Be current on restitution payments pursuant to section 31-254.~~

7 ~~(j) Have a need and ability to benefit from the program as determined~~
8 ~~by the department.~~

9 (g) BE CLASSIFIED BY THE DEPARTMENT AS MINIMUM OR MEDIUM CUSTODY AS
10 DETERMINED BY AN OBJECTIVE RISK ASSESSMENT.

11 (h) NOT HAVE BEEN FOUND IN VIOLATION OF ANY MAJOR VIOLENT RULE DURING
12 THE INMATE'S CURRENT PERIOD OF INCARCERATION OR IN VIOLATION OF ANY OTHER
13 MAJOR RULE WITHIN THE PREVIOUS SIX MONTHS. FOR THE PURPOSES OF THIS
14 SUBDIVISION, AN ACCUMULATION OF MINOR RULE VIOLATIONS DOES NOT EQUAL A MAJOR
15 RULE VIOLATION.

16 2. A requirement that each contracted entity train mentors or certify
17 that mentors are trained.

18 3. A REQUIREMENT THAT the services ~~that may be~~ offered to an inmate
19 INCLUDE PSYCHOEDUCATIONAL COUNSELING AND CASE MANAGEMENT SERVICES AS
20 DETERMINED BY THE DEPARTMENT. THE COUNSELING AND SERVICES MAY INCLUDE
21 SUBSTANCE ABUSE TREATMENT, ANGER MANAGEMENT, COGNITIVE BEHAVIORAL THERAPY,
22 PARENTING SKILLS AND FAMILY REUNIFICATION TRAINING, FURTHER EDUCATION AND JOB
23 PLACEMENT.

24 ~~4. The criteria for inmates to participate in a three month early~~
25 ~~release program. Inmates are not required to receive an early release.~~

26 ~~5.~~ 4. A requirement that an inmate may be released pursuant to this
27 article only after the victim has been provided notice and an opportunity to
28 be heard. The department shall provide notice to a victim who has provided a
29 current address or other contact information. The notice shall inform the
30 victim of the opportunity to be heard on the early release. Any objection to
31 the inmate's early release must be made within twenty days after the
32 department has mailed the notice to the victim.

33 C. In awarding contracts under this section the department shall
34 comply with section 41-3751.

35 D. The department shall:

36 1. Conduct an annual study to determine the recidivism rate of inmates
37 who receive a contracted entity's services pursuant to this article. THE
38 STUDY SHALL INCLUDE THE RECIDIVISM RATE OF INMATES WHO HAVE BEEN RELEASED
39 FROM INCARCERATION FOR A MINIMUM OF THREE YEARS AFTER RELEASE.

40 2. Evaluate the inmate and provide the information to the contracted
41 entity.

42 3. Submit a written report to the governor, the president of the
43 senate and the speaker of the house of representatives on or before July 31
44 of each year and provide a copy of this report to the secretary of state ~~and~~
45 ~~the director of the Arizona state library, archives and public records. THE~~

1 REPORT MAY BE SUBMITTED ELECTRONICALLY. The report shall contain the
2 following information:

3 (a) The recidivism rate of inmates who receive services pursuant to
4 this article, INCLUDING THE RECIDIVISM RATE OF INMATES WHO HAVE BEEN RELEASED
5 FROM INCARCERATION FOR A MINIMUM OF THREE YEARS AFTER RELEASE.

6 (b) The number of inmates who received services pursuant to this
7 article.

8 (c) The number of inmates who were not provided services pursuant to
9 this article and who were on a list waiting to receive services.

10 (d) The types of services provided.

11 (e) The number of inmates who received each type of service provided.

12 4. PROVIDE INFORMATION ABOUT THE TRANSITION PROGRAM TO ALL INMATES WHO
13 ARE NOT SERVING A LIFE SENTENCE ON ADMISSION TO PRISON AND TO ANY INMATE WHO
14 IS POTENTIALLY ELIGIBLE FOR THE TRANSITION PROGRAM SIX MONTHS BEFORE THE
15 INMATE'S ELIGIBILITY DATE. THE INFORMATION MUST INCLUDE ALL OF THE ADMISSION
16 REQUIREMENTS TO THE TRANSITION PROGRAM, INCLUDING THE DISQUALIFYING FACTORS
17 UNDER THIS SECTION.

18 E. FOR THE PURPOSES OF THIS SECTION, "RECIDIVISM" MEANS
19 REINCARCERATION IN THE DEPARTMENT FOR ANY REASON.

20 Sec. 4. Section 31-287, Arizona Revised Statutes, is amended to read:

21 31-287. Program termination

22 The transition program established by this article ends on July 1, 2018
23 2020 pursuant to section 41-3102.

24 Sec. 5. Section 41-178, Arizona Revised Statutes, is amended to read:

25 41-178. Distribution of notary bond fees

26 The state treasurer shall transmit, distribute or deposit all monies
27 received pursuant to section 41-126, subsection A, paragraphs 11 and 12 as
28 follows:

29 1. 1.31 ~~per cent~~ PERCENT for deposit in the ~~drug and gang enforcement~~
30 ~~account~~ RESOURCE CENTER FUND established by ~~section 41-2402~~ AND for the
31 purposes of section 41-2402, subsection G.

32 2. 8.87 ~~per cent~~ PERCENT for deposit in the domestic violence shelter
33 fund established by section 36-3002.

34 3. 1.93 ~~per cent~~ PERCENT for deposit in the child abuse prevention
35 fund established by section 8-550.01.

36 4. 7.62 ~~per cent~~ PERCENT for proportional deposit in each county's law
37 library fund established by section 12-305, based on the number of notaries
38 commissioned per county.

39 5. 0.35 ~~per cent~~ PERCENT for deposit in the alternative dispute
40 resolution fund established by section 12-135.

41 6. 23.79 ~~per cent~~ PERCENT for deposit in the elected officials'
42 retirement plan fund established by section 38-802, which shall be
43 distributed to the fund pursuant to section 38-810.

44 7. 17.07 ~~per cent~~ PERCENT for deposit in the judicial collection
45 enhancement fund established by section 12-113.

1 8. 0.26 ~~per cent~~ PERCENT for deposit in the confidential intermediary
2 and fiduciary fund established by section 8-135.

3 9. 31.29 ~~per cent~~ PERCENT for deposit in the notary bond fund
4 established by section 41-314.

5 10. 7.51 ~~per cent~~ PERCENT shall be distributed to the county where the
6 notary is commissioned in the same manner as the seven dollars of the time
7 payment fee prescribed by section 12-116, subsection B.

8 Sec. 6. Section 41-191.09, Arizona Revised Statutes, is amended to
9 read:

10 41-191.09. Attorney general legal services cost allocation
11 fund; contributions; annual report; exemptions

12 A. The attorney general legal services cost allocation fund is
13 established for the purpose of reimbursing the department of law for general
14 agency counsel. Monies in the fund are subject to legislative appropriation.
15 The attorney general shall administer the fund.

16 B. Except as provided in subsection E of this section, each state
17 agency or department may be charged for general agency counsel provided by
18 the department of law. The amount, if any, shall be specified annually in
19 the general appropriations act.

20 C. On or before September 1 of each year, each state agency or
21 department shall submit A REPORT to the joint legislative budget committee
22 ~~for review a report identifying~~ THAT IDENTIFIES the funding sources for the
23 monies to be deposited pursuant to this section. The funding sources may not
24 include the state general fund, federal funds or other funds that are legally
25 restricted from making such payments.

26 D. A claim for the legal services cost allocation payment shall be
27 submitted according to the fund source to the department of administration
28 for deposit in the attorney general legal services cost allocation fund.

29 E. The following agencies are exempt from this section:

- 30 1. The department of water resources.
- 31 2. The residential utility consumer office.
- 32 3. The industrial commission.
- 33 4. The universities and the Arizona board of regents.
- 34 5. The auditor general.
- 35 6. The corporation commission.
- 36 7. The office of the governor.
- 37 8. The department of law.
- 38 9. The house of representatives.
- 39 10. The senate.
- 40 11. The joint legislative budget committee.
- 41 12. The Arizona state library, archives and public records.
- 42 13. The legislative council.
- 43 14. The department of administration risk management fund.
- 44 15. The department of transportation.
- 45 16. The Arizona game and fish department.

17. The department of economic security.
18. The Arizona health care cost containment system.
19. The superior court.
20. The court of appeals.
21. The supreme court.
22. The Arizona department of agriculture and councils that receive administrative and budgetary services from the Arizona department of agriculture.
23. All self-supporting regulatory agencies as determined pursuant to section 35-143.01.
24. The Arizona commerce authority.
25. The department of child safety.

F. Monies in the attorney general legal services cost allocation fund are exempt from lapsing to the state general fund at the end of each fiscal year.

Sec. 7. Section 41-1604.07, Arizona Revised Statutes, is amended to read:

41-1604.07. Earned release credits; forfeiture; restoration; released prisoner health care

A. Pursuant to rules adopted by the director, each prisoner who is in the eligible earned release credit class shall be allowed an earned release credit of one day for every six days served, including time served in county jails, except for those prisoners who are sentenced to serve the full term of imprisonment imposed by the court.

B. Release credits earned by a prisoner pursuant to subsection A of this section shall not reduce the term of imprisonment imposed by the court on the prisoner.

C. On reclassification of a prisoner resulting from the prisoner's failure to adhere to the rules of the department or failure to demonstrate a continual willingness to volunteer for or successfully participate in a work, educational, treatment or training program, the director may declare all release credits earned by the prisoner forfeited. In the discretion of the director, forfeited release credits may subsequently be restored. The director shall maintain an account of release credits earned by each prisoner.

D. A prisoner who has reached the prisoner's earned release date or sentence expiration date shall be released to begin the prisoner's term of community supervision imposed by the court or term of probation if the court waived community supervision pursuant to section 13-603, except that the director may deny or delay the prisoner's release to community supervision or probation if the director believes the prisoner may be a sexually violent person as defined in section 36-3701 until the screening process is complete and the director determines that the prisoner will not be referred to the county attorney pursuant to section 36-3702. If the term of community supervision is waived, the state department of corrections shall provide

1 reasonable notice to the probation department of the scheduled release of the
2 prisoner from confinement by the department. If the court waives community
3 supervision, the director shall issue the prisoner an absolute discharge on
4 the prisoner's earned release credit date. A prisoner who is released on the
5 earned release credit date to serve a term of probation is not under the
6 control of the state department of corrections when community supervision has
7 been waived and the state department of corrections is not required to
8 provide parole services.

9 E. Notwithstanding subsection D of this section, a prisoner who fails
10 to achieve functional literacy at an eighth grade literacy level shall not be
11 released to begin the prisoner's term of community supervision until either
12 the prisoner achieves an eighth grade functional literacy level as measured
13 by standardized assessment testing or the prisoner serves the full term of
14 imprisonment imposed by the court, whichever first occurs. This subsection
15 does not apply to inmates who either:

16 1. Are unable to meet the functional literacy standard required by
17 section 31-229.02, subsection A, due to a medical, developmental or learning
18 disability as described in section 31-229, subsection C.

19 2. Are classified as level five offenders.

20 3. Are foreign nationals.

21 4. Have less than six months OF incarceration to serve on commitment
22 to the department.

23 F. The department shall establish conditions of community supervision
24 it deems appropriate in order to ensure that the best interests of the
25 prisoner and the citizens of this state are served. As a condition of
26 community supervision, the director:

27 1. May order a released prisoner to participate in an appropriate drug
28 treatment or education program that is administered by a qualified agency,
29 organization or individual approved by the department of health services and
30 that provides treatment or education to persons who abuse controlled
31 substances. Each person who is enrolled in a drug treatment or education
32 program shall pay for the cost of participation in the program to the extent
33 of the person's financial ability.

34 2. MAY ORDER additional conditions, ~~may include~~ INCLUDING
35 participation in a rehabilitation program or counseling and performance of
36 community restitution work. ~~except that~~

37 3. MAY ORDER A PRISONER TO APPLY FOR HEALTH CARE BENEFITS THROUGH THE
38 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM BEFORE BEING RELEASED. THE STATE
39 DEPARTMENT OF CORRECTIONS SHALL ENTER INTO AN ENROLLMENT SUSPENSE AGREEMENT
40 WITH THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM TO REINSTATE BENEFITS
41 FOR PRISONERS WHO WERE SENTENCED TO TWELVE MONTHS OR LESS AND WHO WERE
42 PREVIOUSLY ENROLLED IN THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
43 IMMEDIATELY BEFORE INCARCERATION. FOR ALL OTHER PRISONERS, THE STATE
44 DEPARTMENT OF CORRECTIONS SHALL SUBMIT A PRERELEASE APPLICATION TO THE
45 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM AT LEAST THIRTY DAYS BEFORE THE

1 PRISONER'S RELEASE DATE. THE STATE DEPARTMENT OF CORRECTIONS MAY COORDINATE
2 WITH COMMUNITY-BASED ORGANIZATIONS OR THE DEPARTMENT OF ECONOMIC SECURITY TO
3 ASSIST PRISONERS IN APPLYING FOR ENROLLMENT IN THE ARIZONA HEALTH CARE COST
4 CONTAINMENT SYSTEM.

5 4. SHALL IMPOSE, if the prisoner was convicted of a violation of
6 sexual conduct with a minor under fifteen years of age or molestation of a
7 child under fifteen years of age, ~~the department shall impose as a condition~~
8 ~~of community supervision~~ a prohibition on residing within four hundred forty
9 feet of a school or its accompanying grounds. FOR THE PURPOSES OF THIS
10 PARAGRAPH, "SCHOOL" MEANS ANY PUBLIC, CHARTER OR PRIVATE SCHOOL WHERE
11 CHILDREN ATTEND CLASSES.

12 G. THE DIRECTOR MAY EXCHANGE A PRISONER'S HEALTH CARE INFORMATION WITH
13 THE REGIONAL BEHAVIORAL HEALTH AUTHORITY OR ARIZONA HEALTH CARE COST
14 CONTAINMENT SYSTEM JUSTICE SYSTEM CONTACT TO FACILITATE THE TRANSITION TO
15 CARE FOR RELEASED PRISONERS TO ACCESS THE FULL ARRAY OF BEHAVIORAL AND
16 PHYSICAL HEALTH CARE SERVICES, INCLUDING MEDICATION, COUNSELING, CASE
17 MANAGEMENT, SUBSTANCE ABUSE TREATMENT, AND PARENTING SKILLS AND FAMILY
18 REUNIFICATION TRAINING. THE DIRECTOR SHALL ADOPT POLICIES AND PROCEDURES
19 THAT ESTABLISH A CARE TEAM TO CONVENE AND DISCUSS THE SERVICES AND RESOURCES,
20 INCLUDING HOUSING AND EMPLOYMENT SUPPORTS, THAT MAY BE NEEDED FOR THE
21 RELEASED PRISONER TO SAFELY TRANSITION INTO THE COMMUNITY. THE CARE TEAM
22 SHALL BE MANAGED BY THE REGIONAL BEHAVIORAL HEALTH AUTHORITY OR ARIZONA
23 HEALTH CARE COST CONTAINMENT SYSTEM CONTRACTOR AND MAY INCLUDE THE HEALTH
24 CARE PROVIDER THAT IS IDENTIFIED BY AND HAS A CONTRACT WITH THE REGIONAL
25 BEHAVIORAL HEALTH AUTHORITY OR ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
26 CONTRACTOR. THE CARE TEAM MAY ALSO INCLUDE REPRESENTATIVES OF NONPROFIT
27 ORGANIZATIONS THAT SPECIALIZE IN ASSISTING PRISONERS WHO ARE TRANSITIONING
28 BACK INTO THE COMMUNITY AND OTHER ORGANIZATIONS THAT LINK PRISONERS TO
29 ADDITIONAL SERVICES, INCLUDING HOUSING AND EMPLOYMENT.

30 H. If a prisoner who reaches the prisoner's earned release credit date
31 refuses to sign and agree to abide by the conditions of supervision before
32 release on community supervision, the prisoner shall not be released. When
33 the prisoner reaches the sentence expiration date, the prisoner shall be
34 released to begin the term of community supervision. If the prisoner refuses
35 to sign and agree to abide by the conditions of release, the prisoner shall
36 not be released on the sentence expiration date and shall serve the term of
37 community supervision in prison. The department is required to supervise any
38 prisoner on community supervision until the period of community supervision
39 expires. The department may bring a prisoner who is in violation of the
40 prisoner's terms and conditions before the board of executive clemency. ~~For~~
41 ~~the purposes of this subsection, "school" means any public, charter or~~
42 ~~private school where children attend classes.~~

43 ~~G.~~ I. The director, pursuant to rules adopted by the department,
44 shall authorize the release of any prisoner on the prisoner's earned release
45 credit date to serve any consecutive term imposed on the prisoner. The

1 release shall be for the sentence completed only. The prisoner shall remain
2 under the custody and control of the department. The director may authorize
3 the rescission of the release to any consecutive term if the prisoner fails
4 to adhere to the rules of the department.

5 ~~H.~~ J. If a prisoner absconds from community supervision, any time
6 spent before the prisoner is returned to custody is excluded in calculating
7 the remaining period of community supervision.

8 ~~I.~~ K. A prisoner shall forfeit five days of the prisoner's earned
9 release credits:

10 1. If the court finds or a disciplinary hearing held after a review by
11 and recommendations from the attorney general's office determines that the
12 prisoner does any of the following:

13 (a) Brings a claim without substantial justification.

14 (b) Unreasonably expands or delays a proceeding.

15 (c) Testifies falsely or otherwise presents false information or
16 material to the court.

17 (d) Submits a claim that is intended solely to harass the party it is
18 filed against.

19 2. For each time the prisoner tests positive for any prohibited drugs
20 during the period of time the prisoner is incarcerated.

21 ~~J.~~ L. If the prisoner does not have five days of earned release
22 credits, the prisoner shall forfeit the prisoner's existing earned release
23 credits and shall be ineligible from accruing earned release credits until
24 the number of earned release credits the prisoner would have otherwise
25 accrued equals the difference between five days and the number of existing
26 earned release credit days the prisoner forfeits pursuant to this section.

27 ~~K.~~ M. The director may authorize temporary release on inmate status
28 of eligible inmates pursuant to rules adopted by the director within ninety
29 days of any other authorized release date. The release authorization applies
30 to any inmate who has been convicted of a drug offense, who has been
31 determined to be eligible for participation in the transition program
32 pursuant to section 31-281 and who has agreed to participate in the
33 transition program.

34 Sec. 8. Section 41-1641, Arizona Revised Statutes, is amended to read:

35 41-1641. Corrections fund; uses; prior approval; exemption;
36 transfer

37 A. The corrections fund is established and consists of monies received
38 from the distribution provided pursuant to section 42-3104. THE STATE
39 DEPARTMENT OF CORRECTIONS SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE
40 SUBJECT TO LEGISLATIVE APPROPRIATION.

41 B. Monies in the corrections fund may be expended by:

42 1. The director of the department of administration for major
43 maintenance, construction, lease, purchase, renovation or conversion of
44 corrections or state operated juvenile facilities subject to the prior
45 approval of the joint committee on capital review and the legislature.

1 2. The director of the state department of corrections for costs
2 incurred in the minor maintenance and the operations of corrections
3 facilities subject to the prior approval of the legislature.

4 3. The director of the department of juvenile corrections for costs
5 incurred in the minor maintenance and the operations of state operated
6 juvenile facilities subject to the prior approval of the legislature.

7 C. Notwithstanding any law to the contrary and except as provided in
8 subsection B of this section:

9 1. The director of the state department of corrections shall enter
10 into an agreement with the director of the department of administration for
11 the expenditure of monies for the maintenance of corrections facilities.

12 2. The director of the department of juvenile corrections shall enter
13 into an agreement with the director of the department of administration for
14 the expenditure of monies for the maintenance of state operated juvenile
15 facilities.

16 D. Monies in the fund are exempt from the provisions of section 35-190
17 relating to lapsing of appropriations.

18 E. The director OF THE STATE DEPARTMENT OF CORRECTIONS shall transfer
19 two million five hundred thousand dollars from the corrections fund annually
20 to the department of corrections building renewal fund established by section
21 41-797.

22 Sec. 9. Section 41-2402, Arizona Revised Statutes, is amended to read:

23 41-2402. Drug and gang enforcement fund; resource center fund;
24 uses

25 A. ~~A- THE drug and gang enforcement account~~ FUND is established ~~within~~
26 ~~the criminal justice enhancement fund consisting~~ AND CONSISTS of monies
27 appropriated ~~to the account~~ by the legislature and any other monies available
28 from other sources, public or private. ~~, to be used for the purpose of~~
29 ~~enhancing~~ MONIES IN THE FUND SHALL BE USED TO ENHANCE efforts to deter,
30 investigate, prosecute, adjudicate and punish drug offenders and members of
31 criminal street gangs as defined in section 13-105. THE ARIZONA CRIMINAL
32 JUSTICE COMMISSION SHALL ADMINISTER THE FUND.

33 B. The Arizona criminal justice commission shall distribute monies
34 from the drug and gang enforcement ~~account~~ FUND in the following manner:

35 1. Up to fifty ~~per cent~~ PERCENT to fund law enforcement agencies
36 approved by the commission to enhance both:

37 (a) The investigation of drug and gang offenses and related criminal
38 activity.

39 (b) Drug and gang education and prevention programs.

40 2. Up to fifty ~~per cent~~ PERCENT to fund programs and agencies approved
41 by the commission to enhance the state, county, city or town prosecution of
42 drug and gang offenses and related criminal activity.

43 3. Up to thirty ~~per cent~~ PERCENT to fund programs and agencies
44 approved by the commission for the purpose of enhancing the ability of the
45 courts to process drug and gang offenses and related criminal cases, either

1 through the appointment of judges pro tempore or the establishment of
2 additional divisions of the courts only for the purposes of this section,
3 enhancing defense and probation services, including treatment, and funding
4 the drug testing program.

5 4. Up to thirty ~~per cent~~ PERCENT to fund programs by county sheriffs
6 and the state department of corrections, as approved by the commission, to
7 enhance drug offender treatment programs and the jail operations and
8 facilities available to detain and incarcerate drug offenders and members of
9 criminal street gangs as defined in section 13-105.

10 5. Up to thirty ~~per cent~~ PERCENT to fund programs and agencies, as
11 approved by the commission, to enhance the integration of criminal justice
12 records relating to drug and gang offenders and their related criminal
13 activity.

14 C. Any state agency that receives monies allocated from ~~this account~~
15 THE DRUG AND GANG ENFORCEMENT FUND shall not include ~~such~~ THE monies as part
16 of ~~its~~ THE STATE AGENCY'S continuation budget base for the purpose of
17 requesting appropriations for the following fiscal year.

18 D. All the monies allocated from ~~this account~~ THE DRUG AND GANG
19 ENFORCEMENT FUND shall be dedicated solely to the purpose of enhancing
20 efforts to deter, investigate, prosecute, adjudicate and punish drug and gang
21 and related criminal offenders, except those monies allocated pursuant to
22 subsection G of this section.

23 E. Notwithstanding the limitations prescribed in subsection B of this
24 section, any federal monies or matching state monies in the drug and gang
25 enforcement ~~account~~ FUND may only be allocated by the commission pursuant to
26 a plan approved by the federal government.

27 F. The auditor general shall annually perform a full and complete
28 audit of the DRUG AND GANG ENFORCEMENT fund or the commission shall annually
29 contract with an accounting firm to perform the audit and deliver a report to
30 the governor and the legislature. The audit shall be charged to the drug and
31 gang enforcement ~~account~~ FUND.

32 G. ~~A-~~ THE resource center fund is established consisting of monies
33 received pursuant to section 12-284.03, subsection A, paragraph 1 and section
34 41-178 and all monies received from public or private gifts, grants or other
35 sources, excluding federal monies and monies to be passed through to other
36 entities, to be used solely for ~~the purpose of~~ funding the Arizona youth
37 survey. THE ARIZONA CRIMINAL JUSTICE COMMISSION SHALL ADMINISTER THE FUND.
38 Monies in the fund are subject to legislative appropriation. Any monies
39 unexpended or unencumbered on June 30 of each year shall not be subsequently
40 expended or encumbered unless reappropriated. ~~No~~ Monies in the drug and gang
41 enforcement ~~account except those received pursuant to this subsection~~ FUND
42 shall NOT be used to fund the Arizona youth survey. Monies that are expended
43 pursuant to this subsection are subject to the reporting requirements
44 prescribed in section 41-617.01.

1 Sec. 10. Section 41-2405, Arizona Revised Statutes, is amended to
2 read:

3 41-2405. Arizona criminal justice commission: powers and
4 duties; staff

5 A. The Arizona criminal justice commission shall:

6 1. Monitor the progress and implementation of new and continuing
7 criminal justice legislation.

8 2. Facilitate research among criminal justice agencies and maintain
9 criminal justice system information.

10 3. Facilitate coordinated statewide efforts to improve criminal
11 justice information and data sharing.

12 4. Prepare for the governor a biennial criminal justice system review
13 report. The report shall contain:

14 (a) An analysis of all criminal justice programs created by the
15 legislature in the preceding two years.

16 (b) An analysis of the effectiveness of the criminal code, with a
17 discussion of any problems and recommendations for revisions if deemed
18 necessary.

19 (c) A study of the level of activity in the several areas of the
20 criminal justice system, with recommendations for redistribution of criminal
21 justice revenues if deemed necessary.

22 (d) An overall review of the entire criminal justice system, including
23 crime prevention, criminal apprehension, prosecution, court administration
24 and incarceration at the state and local levels as well as funding needs for
25 the system.

26 (e) Recommendations for constitutional, statutory and administrative
27 revisions that are necessary to develop and maintain a cohesive and effective
28 criminal justice system.

29 5. Provide supplemental reports on criminal justice issues of special
30 timeliness.

31 6. In coordination with other governmental agencies, gather
32 information on programs that are designed to effectuate community crime
33 prevention and education using citizen participation and on programs for
34 alcohol and drug abuse prevention, education and treatment and disseminate
35 that information to the public, political subdivisions, law enforcement
36 agencies and the legislature.

37 7. Make recommendations to the legislature and the governor regarding
38 the purposes and formula for allocation of fund monies as provided in section
39 41-2401, subsection D and section 41-2402 through the biennial agency budget
40 request.

41 8. Adopt rules for the purpose of allocating fund monies as provided
42 in sections 41-2401, 41-2402 and 41-2407 that are consistent with the
43 purposes set forth in those sections and that promote effective and efficient
44 use of the monies.

1 9. Make reports to the governor and the legislature as they require.

2 10. Oversee the research, ~~analysis~~ ANALYSES, studies, reports and
3 publication of crime and criminal justice statistics prepared by the Arizona
4 statistical analysis center, which is an operating section of the Arizona
5 criminal justice commission.

6 11. Prepare an annual report on law enforcement activities in this
7 state THAT ARE funded by the drug AND GANG enforcement ~~account~~ FUND or the
8 criminal justice enhancement fund and ~~relating~~ THAT RELATE to illicit drugs
9 and drug related gang activity. The report shall be submitted by October 31
10 of each year to the governor, the president of the senate and the speaker of
11 the house of representatives AND A COPY SHALL BE SUBMITTED TO THE SECRETARY
12 OF STATE. The report shall include:

13 (a) The name and a description of each law enforcement program dealing
14 with illegal drug activity or street gang activity, or both.

15 (b) The objective and goals of each program.

16 (c) The source and amount of monies received by each program.

17 (d) The name of the agency or entity that administers each program.

18 (e) The effectiveness of each program.

19 12. Compile and disseminate information on best practices for cold
20 case investigations, including effective victim communication procedures.
21 For the purposes of this paragraph, "cold case" means a homicide or a felony
22 sexual offense that remains unsolved for one year or more after being
23 reported to a law enforcement agency and that has no viable and unexplored
24 investigatory leads.

25 B. The Arizona criminal justice commission ~~may~~, as necessary to
26 perform its functions, MAY:

27 1. Request any state or local criminal justice agency to submit any
28 necessary information.

29 2. Form subcommittees, make studies, conduct inquiries and hold
30 hearings.

31 3. Subject to chapter 4, article 4 of this title, employ consultants
32 for special projects and such staff as deemed necessary or advisable to carry
33 out this section.

34 4. Delegate its duties to carry out this section, including:

35 (a) The authority to enter into contracts and agreements on behalf of
36 the commission.

37 (b) Subject to chapter 4, article 4 and, as applicable, articles 5 and
38 6 of this title, the authority to appoint, hire, terminate and discipline all
39 personnel of the commission, including consultants.

40 5. Establish joint research and information facilities with
41 governmental and private agencies.

42 6. Accept and expend public and private grants of monies, gifts and
43 contributions and expend, distribute or allocate monies appropriated to ~~it~~
44 THE COMMISSION for the purpose of enhancing efforts to investigate or
45 prosecute and adjudicate any crime and to implement this chapter.

1 Sec. 11. Laws 2015, chapter 17, section 11 is amended to read:

2 Sec. 11. State department of corrections; incarceration
3 contracts implementation; fiscal year 2016-2017

4 A. The state department of corrections shall award a contract or
5 contracts to open up to one thousand beds on July 1, 2016 pursuant to
6 requests for proposals issued by the state department of corrections for up
7 to a total of ~~two~~ ONE thousand medium security prison beds at new or existing
8 contracted bed facilities or expansions of contracted bed facilities in this
9 state under the authority of section 41-1609, Arizona Revised Statutes.

10 ~~B. The state department of corrections may award a contract or~~
11 ~~contracts for the remaining male medium security prison beds under the~~
12 ~~requests for proposals described in subsection A of this section only if~~
13 ~~specific legislative authorization for the award is provided.~~

14 Sec. 12. State department of corrections; conditional
15 incarceration contracts implementation; fiscal year
16 2016-2017; authorization cessation

17 A. On or before November 30, 2016, the state department of corrections
18 shall notify the joint committee on capital review if the male inmate
19 population listed in the department's daily count sheet increases by at least
20 one thousand inmates above the April 22, 2016 level of 38,762 inmates. After
21 a notification pursuant to this subsection and before the issuance of a
22 request for proposals for one thousand male medium security prison beds, the
23 joint committee on capital review shall review and approve the state
24 department of corrections' plan to issue a request for proposals and the
25 department's timeline for the opening of the beds. The joint committee on
26 capital review may not review or approve a request for proposals pursuant to
27 this section after December 31, 2016.

28 B. After approval by the joint committee on capital review, the state
29 department of corrections shall award a contract or contracts to open up to
30 one thousand male medium security prison beds pursuant to a request for
31 proposals issued by the state department of corrections for a total of one
32 thousand male medium security prison beds at new or existing contracted bed
33 facilities or expansions of contracted bed facilities in this state under the
34 authority of section 41-1609, Arizona Revised Statutes.

35 C. Before a contract is awarded pursuant to subsection B of this
36 section, the state department of corrections shall award a contract for the
37 first two hundred fifty of the one thousand beds to a county that has a
38 population of less than two hundred thousand persons if the county offers a
39 contract that meets all of the requirements in the request for proposals and
40 a per diem at the same rate or less than other competitive bidders that are
41 not counties of this state. Two or more counties may offer one contract if
42 each county has a population of less than two hundred thousand persons. Only
43 the first two hundred fifty beds of the request for proposals are required to
44 be awarded to all eligible counties combined pursuant to this subsection,
45 except that the state department of corrections is not prohibited from

1 awarding a contract pursuant to this subsection for more than two hundred
2 fifty beds. If all eligible counties combined do not offer a contract or
3 contracts for two hundred fifty beds that meet the requirements in the
4 request for proposals and a per diem at the same rate or less than other
5 competitive bidders that are not counties of this state, the state department
6 of corrections shall award a contract to a county that has a population of
7 less than two hundred thousand persons pursuant to this subsection for the
8 total number of beds that meet the requirements.

9 D. If the state department of corrections does not provide the notice
10 required in subsection A of this section on or before November 30, 2016 and
11 if the joint committee on capital review does not review and approve the
12 department's plan to issue a request for proposals on or before December 31,
13 2016, the authorization to enter into a contract for one thousand male medium
14 security prison beds pursuant to this section ceases.

15 Sec. 13. State department of corrections; authority to transfer
16 monies

17 Notwithstanding any other law, in fiscal year 2016-2017, the state
18 department of corrections may transfer monies from the special services fund
19 established by section 41-1604.03, Arizona Revised Statutes, to the
20 automation projects fund established by section 41-714, Arizona Revised
21 Statutes, for costs related to the replacement of the adult inmate management
22 system.

23 Sec. 14. State department of corrections; budget structure

24 Notwithstanding any other law, the state department of corrections
25 shall report actual fiscal year 2015-2016, estimated fiscal year 2016-2017
26 and requested fiscal year 2017-2018 expenditures in the same structure and
27 detail as the prior fiscal year when the department submits the fiscal year
28 2017-2018 budget request pursuant to section 35-113, Arizona Revised
29 Statutes. The information submitted for each line item shall contain as much
30 detail as submitted in previous years for prior line items.

31 Sec. 15. Department of public safety; highway monies;
32 limitation

33 Notwithstanding section 28-6537, Arizona Revised Statutes, the
34 statutory caps and transfers of Arizona highway user revenue fund monies
35 available to fund department of public safety highway patrol costs are
36 suspended for fiscal year 2016-2017.

37 Sec. 16. GIITEM border security and law enforcement subaccount;
38 expenditure plan; review

39 Notwithstanding section 41-1724, subsection G, Arizona Revised
40 Statutes, before the department of public safety spends any monies
41 appropriated in the general appropriations act for fiscal year 2016-2017 from
42 the gang and immigration intelligence team enforcement mission border
43 security and law enforcement subaccount established by section 41-1724,
44 Arizona Revised Statutes, the department shall submit the subaccount's entire
45 expenditure plan to the joint legislative budget committee for review.

1 Sec. 17. GIITEM border security and law enforcement subaccount;
2 use; fiscal year 2016-2017

3 Notwithstanding section 41-1724, subsection E, Arizona Revised
4 Statutes, the department of public safety may use up to \$137,700 of the
5 amount appropriated in the fiscal year 2016-2017 general appropriations act
6 from the gang and immigration intelligence team enforcement mission border
7 security and law enforcement subaccount established by section 41-1724,
8 Arizona Revised Statutes, in fiscal year 2016-2017 for costs related to an
9 increase in the public safety personnel retirement system employer
10 contribution rate.

11 Sec. 18. Nonsupplanting; suspension; report

12 Notwithstanding any other law, in fiscal year 2016-2017 the provisions
13 relating to supplanting of state monies pursuant to section 12-102.02,
14 subsection E, section 12-102.03, subsection D, section 12-135, subsection D,
15 section 12-135.01, subsection D, section 12-267, subsection D, section
16 12-268, subsection D and section 12-299.01, subsection C, Arizona Revised
17 Statutes, are suspended. The Arizona supreme court shall submit a report to
18 the joint legislative budget committee identifying any decrease in county
19 funding related to these suspended provisions, including the reasons for the
20 decrease.

21 Sec. 19. Department of public safety; state aid to indigent
22 defense fund; fiscal year 2016-2017

23 Notwithstanding section 11-588, Arizona Revised Statutes, in fiscal
24 year 2016-2017, the department of public safety may use monies in the state
25 aid to indigent defense fund established by section 11-588, Arizona Revised
26 Statutes, for operating expenses.

27 Sec. 20. Department of public safety; automobile theft
28 authority fund; fiscal year 2016-2017

29 Notwithstanding section 41-3451, Arizona Revised Statutes, in fiscal
30 year 2016-2017, the department of public safety may use monies in the
31 automobile theft authority fund established by section 41-3451, Arizona
32 Revised Statutes, for costs associated with the border strike task force.

33 Sec. 21. Legislative intent; county contribution amount for
34 committed youth in secure care facilities

35 It is the intent of the legislature that the amount of the annual
36 committed youth confinement cost sharing fee that the director of the
37 department of juvenile corrections must assess to each county for committed
38 youth in secure care facilities pursuant to section 41-2832, Arizona Revised
39 Statutes, is each county's proportional share of \$11,260,000, using
40 population data from the most recent United States decennial census.

41 Sec. 22. Department of public safety; concealed weapons permit
42 fund; fiscal year 2016-2017

43 Notwithstanding section 41-1722, Arizona Revised Statutes, in fiscal
44 year 2016-2017, the department of public safety may use monies in the

1 concealed weapons permit fund established by section 41-1722, Arizona Revised
2 Statutes, to procure virtual training for law enforcement officers.

3 Sec. 23. Department of public safety; resource center fund;
4 use: fiscal year 2016-2017

5 Notwithstanding section 41-2402, subsection G, Arizona Revised
6 Statutes, as amended by this act, in fiscal year 2016-2017, the department of
7 public safety may use monies in the resource center fund established by
8 section 41-2402, subsection G, Arizona Revised Statutes, for costs associated
9 with the border strike task force.

10 Sec. 24. Cost savings financing agreement; department of
11 administration; state department of corrections;
12 review

13 A. Notwithstanding any other law, the department of administration, in
14 coordination with the state department of corrections, may enter into a
15 financing agreement in fiscal year 2016-2017 that will generate a savings on
16 the cost of housing prisoners by a combined total amount of at least
17 \$25,000,000 from fiscal year 2016-2017 through fiscal year 2024-2025. The
18 state department of corrections' cost reductions as a result of the financing
19 agreement may not vary by more than \$1,000,000 in any fiscal year between
20 fiscal year 2016-2017 and fiscal year 2024-2025. Any state department of
21 corrections contractual payments that are reduced as a direct result of the
22 financing agreement shall be included in calculating the savings.

23 B. Before the department of administration, in coordination with the
24 state department of corrections, enters into a financing agreement pursuant
25 to subsection A of this section, the department of administration, in
26 coordination with the state department of corrections, shall submit for
27 review to the joint committee on capital review the proposed terms of the
28 agreement, the total annual cost savings for the term of the agreement and
29 the state department of corrections' allocation of these savings.

30 Sec. 25. Study committee on incompetent, nonrestorable and
31 dangerous defendants; membership; powers and duties;
32 report; delayed repeal

33 A. The study committee on incompetent, nonrestorable and dangerous
34 defendants is established consisting of the following members:

35 1. One member of the senate who is appointed by the president of the
36 senate and who serves as cochairperson of the committee.

37 2. One member of the house of representatives who is appointed by the
38 speaker of the house of representatives and who serves as cochairperson of
39 the committee.

40 3. The director of the department of health services or the director's
41 designee.

42 4. The chief executive officer of the Arizona state hospital or the
43 chief executive officer's designee.

44 5. The director of the Arizona health care cost containment system or
45 the director's designee.

1 6. Two county attorneys, or the county attorney's designee, one of
2 whom is from a county with a population of one million two hundred thousand
3 persons or more and one of whom is from a county with a population of less
4 than one million two hundred thousand persons. The Arizona prosecuting
5 attorneys' advisory council shall appoint these members.

6 7. The chief justice of the supreme court or the chief justice's
7 designee.

8 8. An administrator of a jail-based restoration to competency program
9 from a county that is not represented by a member appointed pursuant to
10 paragraph 6 of this subsection, or the administrator's designee. The
11 governor shall appoint this member.

12 9. A private attorney who has experience in behavioral health
13 law. The president of the senate shall appoint this member.

14 10. A psychiatrist or psychologist who is licensed pursuant to title
15 32, Arizona Revised Statutes, and who has experience with court-ordered
16 evaluation and treatment. The speaker of the house of representatives shall
17 appoint this member.

18 11. An administrator of an in-patient psychiatric facility or the
19 administrator's designee. The president of the senate shall appoint this
20 member.

21 12. A peace officer who has experience with behavioral health
22 programs. The speaker of the house of representatives shall appoint this
23 member.

24 13. One member who has experience in health policy. The governor
25 shall appoint this member.

26 B. The committee shall research and make recommendations for a program
27 to provide long-term treatment and supervision of persons who have been
28 charged with crimes involving violent or dangerous behavior and who have been
29 found incompetent and nonrestorable pursuant to title 13, chapter 41, Arizona
30 Revised Statutes, including:

31 1. The legal and administrative framework of such a program.

32 2. The number of people who might be eligible for such a program.

33 3. The types of facilities, staffing and treatment services that would
34 be necessary for such a program.

35 4. The costs associated with the establishment, administration and
36 staffing of such a program.

37 C. The committee may request information, data and reports from any
38 state agency or political subdivision of this state, including the courts.
39 The state agencies and political subdivisions shall provide the information
40 electronically, if possible.

41 D. The committee may hold hearings, conduct fact-finding tours and
42 take testimony from witnesses, including participants in the criminal justice
43 system, who may assist the committee in fulfilling the committee's
44 responsibilities. All of the committee's hearings shall be open to the
45 public.

1 E. The legislature shall provide staff and support services to the
2 committee.

3 F. Committee members are not eligible to receive compensation.

4 G. The committee shall submit a report regarding the committee's
5 findings and recommendations on or before December 15, 2016 to the governor,
6 the president of the senate and the speaker of the house of representatives
7 and shall provide a copy of this report to the secretary of state.

8 H. This section is repealed from and after December 31, 2016.

9 Sec. 26. Retroactivity

10 Laws 2015, chapter 17, section 11, as amended by this act, applies
11 retroactively to from and after June 30, 2016.

APPROVED BY THE GOVERNOR MAY 10, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2016.

Passed the House May 3, 20 16

by the following vote: 34 Ayes,

25 Nays, 1 Not Voting

[Signature]
Speaker of the House

☒ Pro Tempore

[Signature]
Chief Clerk of the House

Passed the Senate May 3, 20 16

by the following vote: 18 Ayes,

12 Nays, 0 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

4th day of May, 20 16

at 1:31 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 10th day of

May

at 8:46 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 10th day of May, 20 16

at 11:29 o'clock A. M.

[Signature]
Secretary of State

H.B. 2701